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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,371	03/29/2001	H. Benjamin Diaz	ECCENT.003RA	3448

20995 7590 04/03/2003

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EXAMINER

COSIMANO, EDWARD R

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3629

1. Applicant should note the changes to patent practice and procedure:

A) effective December 01, 1997 as published in the Federal Register, Vol 62, No. 197, Friday October 10, 1997; and

B) effective November 07, 2000 as published in the Federal Register, Vol 65, No. 54603, September 08, 2000.

2. The following has been noted by the examiner:

A) since U.S. Patent has not been assigned, the assent by the assignee/inventors has been received in the form of a reissue declaration as required by 37 CFR § 1.172(a).

B) the offer to surrender the original patent has been received pursuant to 37 CFR § 1.178(a).

C) the reissue seeks to broaden the claims.

D) the reissue application has been filed within 2 (TWO) years.

E) the reissue declaration sets forth at least one error as required by 37 CFR § 1.175(b)(1) that is corrected by the reissue.

F) the reissue declaration filed March 29, 2001 complies with 37 CFR § 1.175(a)(2).

3. The specification and drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification or drawings. Applicant should note the requirements of 37 CFR § 1.74, § 1.75, § 1.84(o,p(5)), § 1.121(a)-1.121(f) & § 1.121(h)-1.121(i).

4. The communication filed on 04 March 2003 is non-responsive to the prior Office action because:

A) applicant merely submitted a copy of the original patent and not the entire actual original patent grant as required.

- 4.1 Since the response appears to be *bona fide*, but through an apparent oversight or inadvertence failed to provide a complete response, applicant is required to complete the response within a time limit of one month from the date of this letter. EXTENSION OF THIS

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TIME LIMIT MAY BE GRANTED UNDER EITHER 37 C.F.R. § 1.136(a) OR 37 C.F.R. § 1.136(b) UP TO A MAXIMUM OF SIX MONTHS.

5. The following is an Examiner's Statement of Reasons for Allowance over the prior art:

A) the prior art for example either:

(1) Barron (3,984,666) which discloses determining the calories burned during exercise; or

(2) Brouns et al (EPO 0537113 A1) which disclose the need to replace nutritional supplements expended during exercise; or

(3) Sugarman et al (5,796,640) which disclose a dietary aid to aid the user in determining the nutritional value of various items; or

(4) Goldberg which disclose a connection between the nutritional intake of a person over a period of time and the suggesting exercise.

B) however, in regard to claims 1 & 15, the prior art does not teach or suggest the use of both nutrition and exercise menus to select nutritional intake values and calories burned during exercise. Claims 2-14 are allowable for the same reason.

C) however, in regard to claims 2, 15, 16, 40 & 55 the prior art does not teach or suggest the use of a wireless communications link to enter exercise data. Claims 19-28, 30-35, 37-39, 43-48, 50-54 & 75-85 are allowable for the same reason.

D) however, in regard to claims 13, 15, 36 & 55 are the prior art does not teach or suggest the use of a password to access and/or create the user data. Claims 56-85 are allowable for the same reason.

E) however, in regard to claim 86, the prior art does not teach or suggest suggesting a weight based on user entered values for sex, frame, lifestyle, height and age.

6. Response to applicant's arguments.

6.1 All rejections and objections of the previous Office action not repeated or modified and repeated here in have been over come by applicant's last response.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cosimano whose telephone number is (703) 305-9783. The examiner can normally be reached Monday through Thursday from 7:30am to 6:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703)-308-2702. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

7.1 The fax phone number for UNOFFICIAL/DRAFT FAXES is (703) 746-7240.

7.2 The fax phone number for OFFICIAL FAXES is (703) 305-7687.

7.3 The fax phone number for AFTER FINAL FAXES is (703) 308-3691.

03/29/03


Edward R. Cosimano
Primary Examiner A.U. 3629